

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
DOCUMENT
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DATE FILED: 7/20/2022

JOHN HUGHES,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

22-CV-5839 (VEC)

15-CR-0537 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on July 7, 2022, Movant John Hughes, an inmate at the Federal Correctional Complex – Allenwood, filed a motion to correct or reduce the terms of his prison sentence pursuant to 18 U.S.C. § 3585(b)(1)(2), Dkt. 1718;

WHEREAS the Court initially characterized Mr. Hughes' motion as a petition for writ of *habeas corpus* pursuant to 28 U.S.C. § 2255, *see* Dkt. 1719; and

WHEREAS a challenge to the execution of a prison sentence is properly brought as an application for writ of *habeas corpus* pursuant to 28 U.S.C. § 2241, *see Carmona v. United States Bureau of Prisons*, 243 F.3d 629, 632 (2d Cir. 2001);

IT IS HEREBY ORDERED that the Court's Order at docket entry 1719 is hereby WITHDRAWN.

IT IS FURTHER ORDERED that the Court interprets Mr. Hughes' motion as a challenge to the execution of his sentence, and accordingly, the Court believes the motion should be recharacterized as a § 2241 petition and transferred to the Middle District of Pennsylvania, *see United States v. Smalling*, 644 F. App'x 3, 5 (2d Cir. 2016) (a proceeding under § 2241 must be brought against the applicable United States Bureau of Prisons ("BOP") warden in the district in which the inmate is currently incarcerated).

IT IS FURTHER ORDERED that, “[i]n view of the various potential obstacles to relief on successive § 2241 petitions,” a district court must “give [movant] an opportunity to decline to have his [] motion converted into a § 2241 petition,” *Simon v. United States*, 359 F.3d 139, 145 (2d Cir. 2004).

IT IS FURTHER ORDERED that the deadline for Mr. Hughes to object to the characterization of his motion as a § 2241 petition is **August 31, 2022**; if Mr. Hughes objects, then the Government’s response is due by no later than **September 23, 2022**. If Mr. Hughes does not object, this case will be promptly transferred to the Middle District of Pennsylvania.

The Clerk of Court is respectfully directed to electronically notify the Criminal Division of the U.S. Attorney’s Office for the Southern District of New York that this order has been issued. The Clerk is further directed to mail a copy of this Order to the pro se Movant and note the mailing on the docket.

IT IS FURTHER ORDERED that all further papers filed or submitted for filing must include the criminal docket number and will be docketed in the criminal case.

SO ORDERED.

Dated: July 20, 2022
New York, New York



VALERIE CAPRONI
United States District Judge